

**MEMO ENDORSED**

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April 3, 2023

**VIA ECF**

Hon. Valerie E. Caproni  
United States District Judge  
40 Foley Square  
New York, NY 10007

**Re: Benthos Master Fund, LTD. v. Aaron Etra  
20 CV 3384 (VEC)**

Dear Judge Caproni:

The following is the substance of two emails I received late yesterday and early today from Aaron Etra in which he requested that I convey the following information to you. The only corrections I have made are minor spelling and/or typographical errors for the convenience of the reader. In addition, I have redacted his grandchildren's names in the second email.

**April 2, 2023:**

"1. Marc Sklar has my POA and has clear instructions to fully comply and do all he can to provide material requested that is not subject to 5th Amendment protection. Your Honor now has his email address and can communicate with him directly as you wish. He will reconfirm that what banks and other institutions will do may differ from what we think they can or should do. Also, please remember that I was incarcerated on December 14, 2022 and Amy Gallicchio went on vacation without giving me a POA form which was only delivered well into January 2023, so nothing could be done on compliance for many weeks while I was confined in a criminal jail. This was questionable "coercion" then and now on April 3, 2023 it is excessively "punitive". This is especially true under new policy instituted here by the Warden which only gives very limited times out for showers and time limits on computers and phones, with them turned off as well without warning,

2, The limited times not locked in and restricted use of computers (which includes no use of outside material) makes what Your Honor has proposed for me with the forensic protocol unrealistic going forward if I am here. At best we can send emails like this one, short messages to ones on the approved list.

3. Because of the lock ins and the procedures to take inmates with two Marshalls and in handcuffs and leg irons and with a wheelchair, and long waits to get back in and to be

reprocessed and back to our Units, I have had only one of the needed visits to the hospital for the Glaucoma, with several follow up ones missed and no clinic time possible. So, my condition, which developed here, worsens by the day.

4. Passover begins on Wednesday night and we are mandated to be with family for two seders. I missed Channukah and Purim and would hate to miss this holiday for the first time ever.

5. I have never had ANY of the Benthos funds for myself, have never been paid by anybody for that work and always tried to assist the parties remediate their business loss not caused by me. My own funds and assets have always been meager and not near the level of the qualified investors in Benthos. They have no doubt written off their business loss years ago while taking 6 years to harass me with unjust restraining orders on my so clearly limited funds and income. Please look at [www.ilscollaboration.com](http://www.ilscollaboration.com) for the not for profit I co-founded and under whose auspices I went to life sciences conferences I planned and trade shows where I worked at 8-10 appointments per day for days non-stop. My travel, food and accommodations were paid for. I never received compensation or even expenses. Yes, I went on some vacations and to restaurants (usually paid on credit) with my wife who is a cancer researcher and government civil servant/academic at her research institute and with whom I plan those life science conferences (and how we met). I also do volunteer work with NGOs at the United Nations. For none of this am I paid or reimbursed. Hardly the life of someone hiding large amounts of money or leading the high life, of which I am accused. Nor is it the profile of one facing eviction. If I had hidden money, why would I not personally arrange to pay the settlement, which I need to rely on third parties to do, as Mr. Popofsky knows.

For all of these reasons, as well as compassion and humanitarian concerns for a frail 82 year old, I respectfully request to be released and reunited with my family to celebrate Passover, to work far more effectively on compliance and settlement with my equipment and other sources and to get the treatments for Glaucoma, pre-AML and my other conditions which I urgently need.

Thank you and may all celebrate their respective holy weeks in peace and with their loved ones.”

April 3, 2023:

“We were recalled to our cells before I finished yesterday. Please add the following to the message to Judge Caproni.

I want to identify the Institute for Life Sciences Collaboration (ILSC) that I co-founded and under whose auspices I organize two life sciences conference series: ICMAN- International Conferences on Mechanisms of Action of Nutraceuticals and ICNODAT- International Conferences on Novel Diagnostics and Affordable Treatments. I also represent ILSC as an Association Community Member of ICCA- the International Convention and Conference Association. The more correct web reference for ILSC as a not for profit association is- [www.ilscollaboration.org](http://www.ilscollaboration.org). I also want to identify my role as Chairman of the Council of Organizations of the United Nations Association of the USA whose web reference is [www.councilorganizations.org](http://www.councilorganizations.org). These are the focus of my working life while I try to earn enough from escrow and paymastering to permit me to live decently in a 1 bedroom apartment close to my children and grandchildren in New York City and to spend time with my wife in Croatia and New York.

I also want to say how difficult it is not being able to yet see my first grandson A. (born in December) whose Bris I could not attend or to celebrate the birthday of my granddaughter S. in March. Family has always been the center of my life wherever I have lived and being unable to do so hurts every day.

Thank you for recognizing the need for us to be humane in our treatment of others,

/s/ Aaron Etra”

Respectfully submitted,

/s/

Harvey Fishbein

cc: All counsel (via ECF)

Application DENIED.

Mr. Etra had ample opportunity to comply with the Court's orders before he was remanded for contempt. Challenges associated with satisfying the Court's orders behind bars does not excuse Mr. Etra's failure to produce documents or information that should be readily accessible, such as credit card bills, email communications regarding Mr. Etra's attempts to satisfy Petitioner's judgment, and a list of Mr. Etra's financial accounts. *See* Order & Opinion, Dkt. 260; *cf. Grand v. Schwarz*, No. 15-CV-8779, 2018 WL 1583314, at \*20–21 (S.D.N.Y. Mar. 27, 2018) (ordering a contemnor's incarceration until he purged the contempt by either (1) paying a required disgorgement to the SEC or (2) “providing documentation, including records [from his] bank accounts, that concretely and unambiguously establishe[d] his inability to pay any greater amount than the portion (if any) he eventually pa[id]”).

To the extent Mr. Etra is asserting that he should be released from custody because he cannot obtain records he has been ordered to provide, he must present evidence of that fact beyond his or Mr. Sklar's say-so, which the Court does not credit given Mr. Etra's pattern of deceit. *Cf. United States v. Bobart Travel Agency, Inc.*, 699 F.2d 618, 620 (2d Cir. 1983) (noting that courts may weigh the “credibility” of a party’s assertions during contempt proceedings) (quoting *Maggio v. Zeitz*, 333 U.S. 56, 76 (1948)).

Although the Court is sympathetic to Mr. Etra's desire to be with his family for the holidays, he continues to carry the keys of his prison in his own pocket.

The Clerk of Court is respectfully directed to mail a copy of this order to Mr. Etra at Aaron Etra, Reg. No. 36170-510, MDC-Brooklyn, P.O. Box 329002, Brooklyn, NY 11232, and to note the mailing on the public docket.

SO ORDERED.

 04/04/2023

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE